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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

re application of: Akira Ishino, et al.

Attorney Docket No.: ISHDP166

Application No.: 09/417,604

Examiner: E. Kim

Filed: October 14, 1999

Group: 3721

Title: PACKAGING SYSTEM INCORPORATING  
A PRINTER

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as first-class mail on July 14, 2004 in an envelope addressed to the Commissioner for Patents, Mail Stop Appeal Brief-Patents, P.O. Box 1450 Alexandria, VA 22313-1450.

Signed: \_\_\_\_\_

*Deborah Neill*

Deborah Neill

**APPEAL BRIEF TRANSMITTAL  
(37 CFR 192)**

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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This brief is in furtherance of the Notice of Appeal filed in this case on May 17, 2004.  
This brief is transmitted in triplicate.

This application is on behalf of

☐

Small Entity

☒

Large Entity

Pursuant to 37 CFR 1.17(f), the fee for filing the Appeal Brief is:

☐

\$165.00 (Small Entity)

☒

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Applicant(s) hereby petition for a \_\_\_\_\_ extension(s) of time to under 37 CFR 1.136.

If an additional extension of time is required, please consider this a petition therefor.

☐

\$ An extension for \_\_\_\_\_ months has already been secured and the fee paid therefor of  
is deducted from the total fee due for the total months of extension now requested.

☒

Applicant(s) believe that no (additional) Extension of Time is required; however, if it  
is determined that such an extension is required, Applicant(s) hereby petition that such an

extension be granted and authorize the Commissioner to charge the required fees for an Extension of Time under 37 CFR 1.136 to Deposit Account No. 500388.

Total Fee Due:


Appeal Brief fee	\$330
Extension Fee (if any)	\$NA

Total Fee Due	\$330
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☒ Enclosed is Check No. 9347 in the amount of \$330.

☒ Charge any additional fees or credit any overpayment to Deposit Account No. 500388, (Order No. ISHDP166). Two copies of this transmittal are enclosed.

Respectfully submitted,  
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Signed: \_\_\_\_\_

Deborah Neill

**APPELLANTS' BRIEF PURSUANT TO 37 CFR 1.192**

Sir:

This brief, transmitted herewith in triplicate, is in furtherance of the Notice of Appeal mailed in the above-referenced application on May 17 2004. The fees required under 37 C.F.R. 1.17(f) and any other fees required for filing are enclosed.

This brief contains pursuant to 37 C.F.R. 1.192(c) the items under the following headings and in the order set forth below:

- I Real Party in Interest
- II Related Appeals and Interferences
- III Status of Claims
- IV Status of Amendments
- V Summary of Invention
- VI Issues
- VII Grouping of Claims
- VIII Arguments
- IX Appendix of Claims Involved in the Appeal

## **I. Real Party in Interest**

The real party in interest of this application and of this appeal is:

ISHIDA CO., LTD., which is a Japanese corporation doing business at 44 Sanno-cho, Shogoin, Sakyo-ku, Kyoto, Japan and is the assignee in entire rights to this application.

## **II. Related Appeals and Interferences**

There are no other appeals or interferences known to appellant, the appellant's legal representative, or assignee which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

## **III. Status of Claims**

This application was filed with sixteen (16) claims of which one (1) was independent claim (claim 1).

Claims 1-16 were rejected in an office action dated March 22, 2001. In applicant's response mailed September 18, 2001, claim 1 was amended and claims 2, 6 and 14 were canceled.

Claims 1, 3-5, 7-13, 15 and 16 were rejected in a final office action dated October 26, 2001. In a response mailed January 22, 2002 with a request for continued examination, claim 1 was amended.

Claims 1, 3-5, 7-13, 15 and 16 were rejected in an office action dated April 2, 2002. In applicant's response mailed June 26, 2002, claim 1 was amended.

Claims 1, 3-5, 7-13, 15 and 16 were rejected in a final office action dated July 25, 2002. In applicant's response mailed September 3, 2002, claim 1 was amended.

Claims 1, 3-5, 7-13, 15 and 16 remained rejected in an advisory action dated September 26, 2002 in which the examiner stated that a new issue was raised and the amendment will not be

entered. Applicant responded by filing a request for continued examination on November 6, 2002, together with a preliminary amendment in which claim 1 was again amended.

Claims 1, 3-5, 7-13, 15 and 16 were rejected in an office action dated December 10, 2002. In applicant's response mailed February 20, 2003, no claims were amended.

Claims 1, 3-5, 7-13, 15 and 16 were rejected in a final office action dated April 1, 2003. In applicant's response mailed June 26, 2003, no claims were amended and inventors' declarations without signatures were submitted. Signed declarations were subsequently mailed as supplemental amendment on July 8, 2003.

Claims 1, 3-5, 7-13, 15 and 16 remained rejected in an advisory action dated August 29, 2003. In response, applicant filed a request for continued examination without amending claims on September 11, 2003.

Claims 1, 3-5, 7-13, 15 and 16 were rejected in an office action dated October 23, 2003. In applicant's response mailed January 7, 2004, claim 1 was amended.

Claims 1, 3-5, 7-13, 15 and 16 were rejected in a final office action dated February 9, 2004. In applicant's response mailed April 8, 2004, no claims were amended.

Claims 1, 3-5, 7-13, 15 and 16 were rejected in an advisory action dated May 6, 2004. In response, applicant filed a notice of appeal on May 17, 2004.

The status of the claims as set in said still another final action was and is as follows:

allowed claims	---	none
claims objected to	---	none
cancelled and withdrawn claims	---	2, 6 and 14
claims rejected	---	1, 3-5, 7-13, 15 and 16

#### **IV. Status of Amendments**

Claims 3-5, 7-13, 15 and 16 have not been amended.

The claims as set out in the Appendix are the claims as currently pending.

#### **V. Summary of Invention**

This invention relates to a packaging machine of the form-fill-seal type generally shown in Fig. 1, incorporating a printer 40 for printing on the film F to be made into a bag. The packaging machine is adapted to function under different packaging conditions and the printer is adapted to print different print data, depending on the kind of packaged products to be produced. A packaging condition memory is provided for storing these packaging conditions as shown in Fig. 3A and a print data memory is provided for storing these print data as shown in Fig. 3B. In addition, a correlation data memory is provided for storing correlation data as shown in Fig. 3C for showing the correlation between the print data and the packaging conditions.

#### **VI. Issues**

In aforementioned final office action dated February 9, 2004 which is the most recently issued one of the final office actions (hereinafter simply "the Final Office Action"), the examiner rejected (in Paragraph 2 of the Official Letter) claims 1, 3-5, 7-13, 15 and 16 under 35 U.S.C. 103 over Nakagawa in view of Bennette and Fine. Nakagawa and Bennette had each submitted a declaration, stating that the present invention was not obvious to them, and the examiner's argument in said Final Office Action was that "Fine does show correlation data means as claimed", that "Fine discloses that there is memory containing desired data to be printed", that "Fine also discloses that there is a data set which are (sic) stored in random access memory", and hence that "Fine has data stored in correlation with the packaging conditions as claimed."

ISSUE: DOES FINE DISCLOSE A CORRELATION DATA MEMORY  
AS CLAIMED?

**VII. Grouping of Claims**

It is Applicant's intention that all claims 1, 3-5, 7-13, 15 and 16 stand or fall together, as far as the reasons of rejection stated in the Final Office Action are concerned.

**VIII. Arguments**

ISSUE: DOES FINE DISCLOSE A CORRELATION DATA MEMORY  
AS CLAIMED?

The "correlation data memory as claimed" is defined in the rejected claims as a memory that "stores correlation data between said print data and said packaging condition" and also as "storing specified ones of said print data in correlation with specified ones of said packaging conditions" (Claim 1).

Fine does disclose a random access memory (RAM), but there is no concept of "correlation" or "correlated data" presented in Fine, in spite of the examiner's conclusive statement that "Fine does show correlation data means as claimed" in said Final Office Action.

In said Final Office Action, the examiner stated next that "Fine discloses that there is memory containing desired data to be printed", pointing to column 18, lines 30+. The pointed portion of Fine's disclosure reads as follows:

a ring counter or pointer may be used to direct the data processor 19 to the correct segment of the memory containing the desired data.

Indeed, Fine discloses a memory containing desired data to be printed but there is no statement that the desired data are correlation data. The expression "desired data" is all-inclusive and vague. There is no reason to believe that an ordinary reader would understand that Fine ever intended to include correlation data in "the desired data" especially since Fine never even

bothered to express his "desire" to include correlation data among the data to be contained by his memory when his invention disclosure was written.

The next statement by the examiner in said Final Office Action is that "Fine also discloses that there is a data set which are (sic) stored in random access memory", pointing to column17, lines 55+. The pointed portion of Fine's disclosure reads as follows:

In addition to control storage, which may be a read only memory (ROM), the memory of the data processor is required to be suitably sized and flexible to accomodate (sic) the sensed weight signal as well as the required commodity data sets for the integrated system. A preferred data set comprises the commodity code, the commodity name, the tare weight, the price per pound (or quantity), the universal product code (UPC) information, and the "packed" and "sell by" dates.

Indeed, the examiner is correct in stating that Fine discloses a RAM that stores a data set including, for example, the commodity code, the commodity name, the tare weight, the price per pound (or quantity), the universal product code (UPC) information, and the "packed" and "sell by" dates. None of these examples, however, is what may be referred to as correlation data between print data and packaging data. Nowhere does Fine say that this RAM is adapted, or even intended, to store specified ones of print data in correlation with specified ones of packaging data.

The final statement of the examiner in Paragraph 2 of said Final Office Action is the conclusion that "Fine has data stored in correlation with the packaging conditions as claimed." As reviewed above, however, Fine has no statement to support this conclusion, being totally silent about correlation data of any sort, and the examiner has not pointed out any specific statement in Fine's disclosure to support this conclusion.

### **CONCLUSION**

ISSUE indicates that the examiner did not show any statement in Fine to support the conclusion that Fine disclosed or even hinted at any memory which stores correlation data as



defined in the language of claim 1. It should be concluded that Fine cannot predicate the rejection of the claims under 35 U.S.C. 103 and that the claims are allowable.

Rejection of independent claim 1 as well as dependent claims 3-5, 7-13, 15 and 16 dependent therefrom should be reversed.

Respectfully submitted,

Dated:

July 14, 2004



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## **IX. Appendix of Claims Involved in the Appeal**

1. A packaging system comprising:

a packaging machine which continuously transports a bag-making film along a path while forming said film into a tubular form, fills said tubularly formed film with articles to be packaged inside a bag having a specified bag length and seals said film to produce a packaged product;

a printer and a print roller disposed along said path for printing specified print data on said film as said film passes continuously between said printer and said print roller and causing said printed specified print data to appear on said film;

a packaging condition memory which stores packaging conditions for operating said packaging machine including said bag length and packaging speed for operating said packaging machine;

a print data memory which stores print data from which said specified print data are specified; and

a correlation data memory which stores correlation data between said print data and said packaging conditions, said correlation data memory storing specified ones of said print data in correlation with specified ones of said packaging conditions.

3. The packaging system of claim 1 further comprising an input device for allowing a user to input specified ones of said packaging conditions.

4. The packaging system of claim 3 wherein said correlation data memory stores corresponding ones of said print data in correlation with those of said packaging conditions specified through said input device.

5. The packaging system of claim 1 further comprising a display device for displaying said print data in correlation with said packaging conditions.

7. The packaging system of claim 3 further comprising a display device for displaying corresponding ones of said print data in correlation with said specified ones of said packaging conditions.

8. The packaging system of claim 4 further comprising a display device for displaying said corresponding ones of said print data in correlation with said specified ones of said packaging conditions.

9. The packaging system of claim 1 wherein said packaging condition memory, said print data memory and said correlation data memory are parts of a controller means for operating said packaging machine according to a selected one of said packaging conditions and said printer by data in said print data memory correlated to said selected packaging condition according to said correlation data in said correlation data memory.

10. The packaging system of claim 2 wherein said packaging condition memory, said print data memory and said correlation data memory are parts of a controller means for operating said packaging machine according to a selected one of said packaging conditions and said printer by data in said print data memory correlated to said selected packaging condition according to said correlation data in said correlation data memory.

11. The packaging system of claim 3 wherein said packaging condition memory, said print data memory and said correlation data memory are parts of a controller means for operating said packaging machine according to a selected one of said packaging conditions and said printer by data in said print data memory correlated to said selected packaging condition according to said correlation data in said correlation data memory.

12. The packaging system of claim 4 wherein said packaging condition memory, said print data memory and said correlation data memory are parts of a controller means for operating said packaging machine according to a selected one of said packaging conditions and said printer by data in said print data memory correlated to said selected packaging condition according to said correlation data in said correlation data memory.

13. The packaging system of claim 5 wherein said packaging condition memory, said print data memory and said correlation data memory are parts of a controller means for operating said packaging machine according to a selected one of said packaging conditions and said printer by data in said print data memory correlated to said selected packaging condition according to said correlation data in said correlation data memory.

15. The packaging system of claim 7 wherein said packaging condition memory, said print data memory and said correlation data memory are parts of a controller means for operating said packaging machine according to a selected one of said packaging conditions and said printer by data in said print data memory correlated to said selected packaging condition according to said correlation data in said correlation data memory.

16. The packaging system of claim 8 wherein said packaging condition memory, said print data memory and said correlation data memory are parts of a controller means for operating said packaging machine according to a selected one of said packaging conditions and said printer by data in said print data memory correlated to said selected packaging condition according to said correlation data in said correlation data memory.